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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,818	06/22/2001	Toshio Tonouchi	14723	7637
23389	7590	08/30/2005	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			KHATRI, ANIL	
			ART UNIT	PAPER NUMBER
			2193	

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/887,818

Applicant(s)

TONOUCHI, TOSHIO

Examiner

Anil Khatri

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/16/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-28 are rejected under 35 USC 101 because they disclose a claimed invention that is an abstract idea as defined in the case *In re Warmerdam* 33, F.3d 1354, 31 USPQ2d 1754 (Fed. Cir. 1994).

Analysis: Claims 1-28 are found to be in technological art since the invention is to be practiced by using a computer. Each of the claim is disclosed by applicant as being a “syntax coverage percentage measuring system”. Since the claims are each a series of steps to be performed on a computer the processes must be analyzed to determine whether are statutory under 35 USC 101.

Examiner interprets that claims are non statutory because they are not new and useful and is simply a mathematical/algorithmic construct to manipulate table with rules and calculate percentage of BNF data. Applicant present no substance upon which claimed invention acts and use of computer medium so that it produces a useful results and its functionality can be realized. Thus, examiner believes that invention represents a purely mathematical and algorithmic which is an abstract idea. Therefore, claims 1-28 are non-statutory and rejected under 35 SC 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by *Knudsen et al* USPN 5,586,330.

Regarding claims 1, 6-11, 13, 14, 18-21 and 24-27

Knudsen et al teaches,

A BNF (Backus Normal (Naur) Form) rule check table, which has BNF data respectively corresponding to BNF syntax rules (figure 29, see abstract, column 21, lines 55-67);

a first file reading section which reads each of test input files and carries out lexical analysis to data of each of the read test input files to classify into tokens (column 75, lines 57-67);

a first syntax analyzing section which carries out syntax analysis to each of said tokens, and marks one of BNF data of said BNF rule check table corresponding to token (column 76, lines 3-20);

a coverage percentage output section which acquires a total number of BNF data and a number of marked BNF data from BNF rule check table, and calculates a coverage percentage based on the total number of BNF data and the number of marked BNF data (table 55-59, column 55, lines 7-67 and column 56, lines 19-67); and

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an output section which outputs said coverage percentage calculated by said coverage percentage output section (column 64, lines 30-67).

Regarding claims 2, 3, 12, 15, 16, 22 and 28

Knudsen et al teaches,

Output section includes a display unit (figures 1-2) and

Display unit displays coverage percentages (column 64, lines 30-67).

Regarding claims 4, 5, 17 and 23

Knudsen et al teaches,

Output section includes a storage unit having a reporting file (column 37, lines table 41);

and

Output section stores coverage percentage in reporting file (table 44, 45, column 44, lines 23-34).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri whose telephone number is 571-272-3725. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on 571-272-3719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ANIL KHATRI
PRIMARY EXAMINER